

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15826 of Alvin Mitchell, pursuant to 11 DCMR 3108.1, for a special exception under Section 357.1 to establish a youth rehabilitation home for ten youths ages 13-19 years and 12 staff, basement through the third floor, in an R-4 District at premises No. 2 T Street, N.E. (Square 3509-S, Lot 12).

HEARING DATE: June 9, 1993
DECISION DATE: September 22, 1993

ORDER

SUMMARY OF EVIDENCE:

1. The property that is the subject of this application is located at No. 2 T Street N.E. The property is improved with a three-story structure. It is zoned R-4.

2. The R-4 District permits matter of right development of residential uses including detached, semi-detached and row single-family dwellings and flats with a minimum lot area of 1,800 square feet, a minimum lot width of 18 feet, a maximum lot occupancy of 60 percent, and a maximum height of three stories/40 feet.

Youth rehabilitation homes, adult rehabilitation homes and substance abusers' homes for one to 15 persons, not including resident supervisors and their families, are permitted in an R-4 District by special exception, as approved by the Board.

3. The subject property is located in the Eckington neighborhood of Ward 5. The Eckington neighborhood is a moderate-density residential community. Row dwellings constitute the primary residential use.

4. Commercial establishments and institutional facilities are located adjacent to, or within close proximity to the subject property. The commercial establishments are located along North Capitol and T Streets, and Florida and Rhode Island Avenues. The institutional facilities which include Prospect Hill, St. Mary's and Glenwood Cemetery are located to the north of the subject property. McKinley Senior High School, Langley Junior High School and Eckington Recreation Center are located to the south of the property.

5. The applicant proposes to use the semi-detached three-story residential structure, which was constructed in 1904 and consists of nine bedrooms and four bathrooms and has a gross floor area of 3,264 square feet, as a youth rehabilitation home to

provide group home services for ten adolescent boys in furtherance of the requirements of Order B, Objective 15, of the Jerry M. Consent Decree.

6. The proposed youth home would be under the management of Dytrad Management Services, Inc., d/b/a Gateway Youth Home - Educational Designs, Inc. ("Gateway"). Gateway manages two other youth homes in the District of Columbia. These homes are located at 1601 T Street, N.W. and 1301 Allison Street, N.W.

7. According to Gateway, its program objectives are to (1) provide a homelike environment for youth who require shelter, meals, and attention to physical health and welfare for several weeks or months; (2) provide youth with adult caretakers and role models who will counsel, discipline, and assist them in developing life skills and modifying their behavior; (3) provide motivation for elevating the youths' educational and vocational expectations, assist them in establishing related goals, and provide guidance toward goal accomplishment; and (4) reduce the rate of recidivism among committed youths and the percentage of absences among youths scheduled for court hearings.

8. Gateway seeks to accomplish its program objectives in a "homelike" environment. In such an environment, Gateway provides for the residents' basic needs (i.e., nutritional, disciplinary and educational); recreational needs; vocational needs; and independent living needs. In addition, Gateway has designed a community outreach program to assist residents in reorientation to the community upon their completion of the rehabilitation process. Further, Gateway provides therapeutic support services to the residents in the form of individual social service plans; individual counseling; group counseling; and family counseling.

9. By memorandum dated June 2, 1993, the Office of Planning (OP), recommended conditional approval of the application. OP noted the location of the site and the proposed use. OP stated that the applicant is proposing to operate a 24-hour facility that would provide services seven days per week. Eight full-time and four part-time employees would work at the facility on rotating shifts. The applicant indicated that the employees would include a house administrator and deputy administrator, counselors and cooks. The average length of time the young adults would reside in the home would be between 90 and 100 days.

OP stated that it is not aware of any other property containing a community-based residential facility for five or more persons within a radius of 500 feet from any portion of the subject property. However, two other community-based residential facilities are located in the general vicinity of the site, at 62 Rhode Island Avenue, N.W. and at 1725 Lincoln Road, N.E.

OP stated that the Zoning Regulations require that the applicant provide at least two on-site parking spaces. The applicant indicated that two automobiles can park at the rear of the subject building. Accordingly, the applicant is capable of meeting the parking requirement of the Zoning Regulations.

OP stated that the applicant would be required to comply with District of Columbia licensing requirements for the operation of the youth rehabilitation home. OP further stated that Dytrad Management Services, with funding from the District Government, would be responsible for the adequate operation of the proposed facility.

OP stated that it referred this application to the following District of Columbia government agencies:

- A. Department of Public Works;
- B. Department of Fire and Emergency Medical Services;
- C. Department of Human Services;
- D. Metropolitan Police Department;
- E. Office of Community-Based Residential Facilities; and
- F. Department of Housing and Community Development.

With the exception of OCBRF, the Office of Planning had not received correspondence from any of the aforementioned District government agencies prior to completion of its report.

OP is of the opinion that the applicant's proposal is in harmony with the general purpose and intent of the Zoning Regulations and Map. The proposed facility would not adversely affect the surrounding residential neighborhood because of traffic, noise, operations, or the number of similar facilities in the area. The cumulative effects of the total number of community-based residential facilities that are located in the neighborhood would not have adverse impacts on the area.

Therefore, OP recommends approval of the application with the following conditions:

1. Approval shall be for a period of five years.
2. The total number of people residing on the premises shall not exceed ten youth at any given time.
3. The total number of people employed at the site shall not exceed 12 employees.
4. The premises shall be kept free of trash and debris.
5. Loitering shall not be permitted on or around the premises.

6. On-site activities shall not be disruptive to neighboring property owners and residents.
7. All landscaping shall be continuously maintained in good condition.
8. The applicant shall develop a security plan to be included as part of the record in this case.
9. The applicant shall develop and maintain liaison with the Eckington community.
10. By memorandum dated May 24, 1993, the Office of Community Based Residential Facilities (OCBRF), informed OP that it does not object to the facility, noting that the facility furthered the objectives of the Jerry M. consent decree.
11. By memorandum dated June 7, 1993, the Department of Public Works (DPW), stated that the facility would only have a minimal impact on traffic. Therefore, DPW did not oppose the facility.
12. On June 9, 1993, Advisory Neighborhood Commission (ANC) 5C, submitted a report to the Board whereby the ANC objected to the proposed facility. ANC 5C opposes the facility because of (1) inadequate parking; (2) the community's sense that the facility will have an adverse impact on the neighborhood; and (3) the proposed youth home would increase the number of CBRFs already located in the neighborhood.
13. One witness who resides at 507 U Street, N.W., appeared at the hearing to testify in support of the application. He emphasized the importance of establishing such facilities to meet the requirements of the Jerry M. Consent Decree.
14. The applicant submitted into the record eight letters from neighbors of the 1301 Allison Street youth home. The letters expressed support for the T Street youth home based on the residents' opinion that Gateway has operated a very structured facility and a model program in their community for three years.
15. On June 9, 1993, Harry L. Thomas, Sr., the Ward 5 Councilmember, submitted a letter in opposition to the proposed youth home. Councilmember Thomas cited the detrimental impact that the proposed facility would have on neighboring property values as the basis for his opposition.
16. A number of neighbors appeared at the hearing to voice opposition to the application. They were primarily concerned with the following issues:

- (A) The proliferation of CBRFs in Ward 5;
- (B) The inappropriateness of the location for the proposed use;
- (C) Neighborhood safety;
- (D) The inadequacy of off-street parking provided by the applicant; and
- (E) An inadequate trash removal proposal

(A) The proliferation of CBRFs.

Opponents to the application stated that according to the Mayor's Office on Community-Based Residential Facilities, as of March 1993, there are in excess of 21 community-based residential facilities (CBRFs) in the 5C area.

The residents who live in the 5C area are trying very hard to improve their community. However, improving the neighborhood has become increasingly difficult due to the proliferation of CBRFs in the area. Area residents are concerned that the large number of CBRFs encourages the departure of homeowners from the neighborhood. This, in turn, contributes to the instability of the neighborhood and erodes the tax base of the city.

(B) The inappropriateness of the location.

Opponents to the application testified that the property is located in the vicinity of an open-air drug market. Prostitution and other criminal activities occur near the site. It is the view of the opponents that locating the youths in such close proximity to these criminal elements will hinder their ability to reorient their lives in a positive direction. The opponents argue that the home should be located in a more stable environment rather than one where the influence of crime is ever present.

Opposing neighbors also testified that the location of the facility on T Street is inappropriate because of the type of operation proposed. They believe that locating adjudicated youth in the area will contribute to the instability of the community.

(C) Neighborhood safety.

Opposing neighbors noted that according to Gateway's FY 1992 final report for the provision of group home placement services (prepared for DHS), of the 45 youths served by Gateway, 17 (or 38 percent) absconded. Opponents made note of the Gateway representative's testimony that if a youth takes unauthorized leave from the facility for more than 24 hours, or if a youth fails to

return as scheduled after more than 24 hours, the youth is "dropped" from the facility's rolls and, thereafter, the treatment home is no longer responsible for his whereabouts or conduct. Opponents noted that, based on the Gateway report, of the 17 youth who absconded 14 (or 31 percent) were dropped from the program. Among those who absconded, 11 (or 65 percent) had been adjudicated for "Cocaine/Possession With the Intent to Distribute", and three (or 18 percent) had been adjudicated for "Robbery" or "Armed Robbery." The opponents argue that this high rate of abscondence of felonious youths presents a real and present danger to the safety and well-being of the neighborhood.

One neighbor who lives beside the subject property at 1903 North Capitol Street, N.E. testified that she has been in the neighborhood for 12 years and has worked hard to improve the community and her home. She stated that the applicant's property is located too close to her own to allow the proposed use. She stated that in the past she has had problems with someone from the applicant's property coming onto her porch at the rear. She is concerned that Gateway will not be able to stop similar trespasses in the future.

(D) The inadequacy of off-street parking.

Opponents to the application stated that on both sides of the unit block of T Street, N.E., there are two-hour parking restrictions daily, from 7:00 a.m. until 8:30 p.m. This is to alleviate the parking congestion in the area. Opponents stated that the social institutions in the immediate area impact upon the existing parking conditions. Particularly noted was St. Martin's Catholic Church which is located on the northwest corner of North Capitol Street, N.W. directly across the street from the subject site. Opponents pointed out that this church has approximately 1,000 members who attend its various services on Sundays and throughout the week, and who park on both sides of North Capitol and T Streets. Nonmembers who customarily attend weddings, funerals, revivals, and other religious services held at the church also impact on the parking conditions in the area.

Opposing neighbors argue that the Gateway representative grossly underestimated the number of persons who could potentially and who are likely to be on site at a given time. According to the Gateway representative's testimony, there will be as many as four Gateway staff members on the subject site at various times. In addition, there will be counselors, social workers, psychologists from Progressive Life, and family members who are encouraged to visit the residents. According to Gateway's submission, members of the "advisory board" frequently visit their facilities, as do the participants in the D.C. Superior Court referred community service program which Gateway operates at each of its sites. Additionally, the participants in Gateway's internship

program with Criminal Justice students from the University of the District of Columbia will likely generate both pedestrian and automobile traffic to the facility. Opponents stated that, in light of the numerous people who will be involved with the program, the traffic associated with the facility will substantially increase.

The opponents pointed out the discrepancies between the applicant's testimony that she will provide two off-street parking spaces and her statement on cross-examination that four spaces will be provided. The opponents also noted DPW's statement that "there is one automobile off-street parking space located in the rear yard of the premises." Based on these discrepancies, the opponents stated that the record does not contain evidence that the parking requirements will be met.

(E) The lack of a trash removal proposal.

Opponents to the application stated that the applicant failed to address the issue of how trash will be collected, contained and ultimately disposed of. In light of the number of persons who will be living in, working in, or otherwise frequenting the facility, members of the surrounding community are very concerned about the potential adverse impact that trash will have on the area. They believe that with the facility present, the rodent problems are likely to worsen.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds as follows:

1. There is no other property containing a community-based residential facility for five or more persons located within the same square as the subject property.
2. There is no other property containing a community-based residential facility for five or more persons located within a radius of 500 feet of the subject property.
3. Based on a memorandum from the Zoning Administrator's office dated September 13, 1993, the applicant is required to provide one off-street parking space for the facility. The applicant will provide two off-street parking spaces at the rear of the site. One space will be for a compact car. The other space will be for a standard-sized car.
4. While the applicant will provide two parking spaces at the rear of the site, the applicant needs to ensure that additional off-street parking spaces will be made

available nearby for use by the operators, counselors and visitors to the facility.

5. The applicant will meet all applicable code and licensing requirements prior to operating the facility.
6. Operation of the facility will not cause traffic congestion in the neighborhood because the staff, counselors, social workers, volunteers and family members will not be at the facility at one time.
7. Operation of the facility will not generate high levels of noise in the neighborhood.
8. Gateway's program of discipline, counseling and therapy will operate to prevent the youths from adversely impacting the surrounding neighborhood.
9. Gateway's program of discipline, counseling and therapy will operate to prevent the impact that crime and other adverse neighborhood conditions will have on the residents of the facility.
10. Gateway will provide the liaison committee with names and phone numbers of responsible persons associated with the facility who can be contacted 24 hours a day to respond to concerns related to the facility.
11. Gateway has a good reputation for operating facilities such as the one proposed.
12. The proposed use, combined with similar facilities in the area will not adversely affect the neighborhood.
13. The applicants previously provided care for a number of youths without adversely impacting on the community.
14. The applicant will maintain the property free of trash and debris.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicant is seeking a special exception to establish a youth residential care home for ten persons on property located in an R-4 District.

The granting of such special exception relief requires a showing through substantial evidence that the application can be granted as being in harmony with the general purpose and intent of

the Zoning Regulations and Map and that granting the application will not adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map. The applicant must also meet the applicable provisions of 11 DCMR 358 governing youth care residential facilities.

The Board concludes that the applicant has met the burden of proof. The Board concludes that the applicant will provide adequate, appropriately located and screened off-street parking to provide for the needs of occupants, employees, and visitors.

The Board concludes that the proposed facility will meet all applicable code and licensing requirements.

The Board is of the opinion that the facility will not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.

The Board concludes that while there may be a number of other facilities located in Ward 5, the Board is bound by the Zoning Regulations which allow facilities to be approved if they are not within 500 feet of each other or within the same square.

The Board concludes that the application has been referred to and approved by the Office of Planning and other relevant District of Columbia departments and agencies. The Board further concludes that considering the evidence of record, it is capable of deciding the application without a report from the Police Department.

Finally, the Board concludes that granting the application is in harmony with the general purpose and intent of the Zoning Regulations and Map, and that it will not tend to adversely affect the use of neighboring property.

The Board concludes that it has accorded the views of ANC 5C the "great weight" to which they are entitled.

Based on the foregoing, the Board **ORDERS** that the application is hereby **GRANTED**, **SUBJECT** to the following **CONDITIONS**:

1. Approval shall be for a period of **TWO YEARS**.
2. The maximum number of residents at any time shall not exceed ten. The residents of the facility shall be between the ages of 13 to 19 years.
3. A minimum number of 12 staff members shall be available on a rotating, 24-hour basis. The number of staff on the premises at all times shall be sufficient to provide adequate services including 24-hour supervision of the residents, implementa-

tion of security measures, and provision of emergency services.

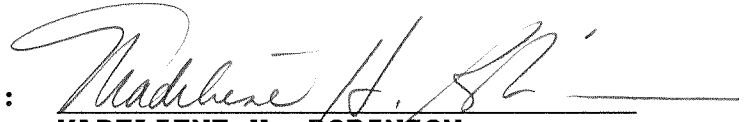
4. The applicant shall provide one full-size and one compact-size parking space at the rear of the site. The applicant shall also provide evidence that a minimum of three parking spaces have been leased in nearby parking facilities for the exclusive use of staff of the subject facility for the duration of its approval.
5. The applicant shall police the subject site and adjacent public space on a daily basis to ensure that the area is kept free of refuse and debris.
6. The applicant shall supervise the activities of the residents on a 24-hour basis to alleviate any adverse impacts on neighboring property due to noise, traffic, or other objectionable conditions. The applicant shall provide the residents of the area with the telephone number of an appropriate contact person who can be reached on a 24-hour basis to report any problems with any activity or condition at the subject facility.
7. The applicant shall maintain the subject premises in keeping with the surrounding residential development. Landscaping shall be maintained in a healthy growing condition and a neat and orderly appearance.
8. The applicant shall establish and maintain a security program to minimize adverse safety impacts on the residents of the facility and the surrounding neighborhood.
9. The applicant shall establish and maintain a community liaison program consisting of representatives of the facility, the ANC, and the neighborhood. The applicant shall conduct meetings of the community liaison members at least four times a year. Notice of the meetings shall be given to the ANC and the owners of all property within 200 feet of the site. The applicant shall be responsible for keeping minutes of all meetings and providing quarterly reports of its activities. The applicant shall file copies of all minutes and quarterly reports with the Board at the time of filing an application for continuance of the special exception relief.

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VOTE: 3-0 (Sheri M. Pruitt and Angel F. Clarens to grant;
Maybelle Taylor Bennett to grant by absentee vote;
Paula L. Jewell abstaining; Carrie L. Thornhill not
voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: _____

NOV 18 1993

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord15826/TWR/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15826

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on NOV 18 1993 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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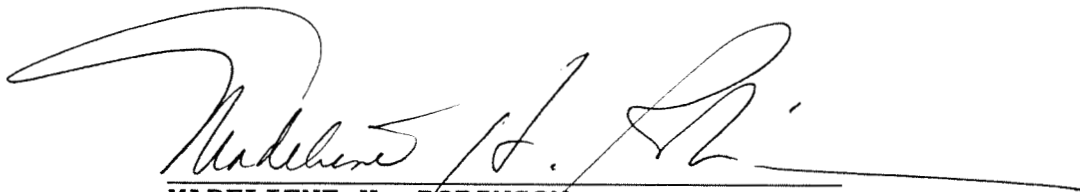
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MADELIENE H. ROBINSON
Director

DATE: NOV 18 1993